

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

CR- 07-00010-001

January 23, 2008
10:35 a.m.

UNITED STATES OF AMERICA -v- QIU, ZHI YUN

PRESENT: HON. ALEX R. MUNSON, Chief Judge Presiding
SANAE SHMULL, Court Reporter
TINA MATSUNAGA, Deputy Clerk
CRAIG MOORE, Assistant U. S. Attorney
ROBERT TORRES, Counsel for Defendant
QIU, ZHI YUN, Defendant

PROCEEDING: SENTENCING

Defendant was present with his counsel, Attorney Robert Torres. Government by Craig Moore, AUSA. Also present was U.S. Probation Officer, Melinda Brunson.

Xue Jun Xing (Norman) was present and sworn as interpreter/translator of the Mandarin language.

No objection by the government of the presentence report. Counsel for defendant had no objections.

Court adopted the presentence investigation report and instructed the Clerk to file the report, under seal, and that the report be made available if the judgment is appealed. The probation officer's recommendation shall also be placed under seal. No objection by the parties.

Government moved for a one level downward departure based on a 5K1.1 motion and a sentence of 33 months imprisonment. Defense also moved for a sentence below the guideline range and recommended a sentence of 33 months with credit for time served.

Defendant made his allocution.

SENTENCE: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant **QIU, ZHI YUN** is hereby sentenced to **33 months** imprisonment with credit for time served. Upon release from imprisonment, the defendant is ordered to serve a term of supervised release of three years which will include the following conditions:

1. The defendant shall be delivered to a duly authorized immigration official for deportation proceedings pursuant to 18 U.S.C. § 3583(d), and with the established procedures provided by the Immigration and Naturalization Act under 8 U.S.C. § 1101. As a further condition of supervised release, if deported, the defendant shall remain outside the United States and not re-enter without the permission of the Secretary of the Department of Homeland Security. If deportation does not occur and the defendant is released from confinement pending further immigration proceedings, he shall immediately report to the U.S. Probation Office to begin his term of supervised release;
2. The defendant shall not commit another federal, state, or local crime;
3. The defendant shall not unlawfully possess a controlled substance and shall refrain from any unlawful use of a controlled substance. He shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter. Further, the defendant shall submit to a maximum of eight drug tests per month, as directed by the probation officer;
4. The defendant shall submit to the collection of a DNA sample at the direction of the U.S. Probation Office;
5. The defendant shall comply with the conditions of supervision as adopted by this Court;
6. The defendant shall be prohibited from possessing a firearm or other dangerous weapon, as defined by federal, state, or local law, or have such weapon where he resides;
7. The defendant shall participate in a program approved by the U.S. Probation Office for substance abuse, which program may include testing to determine whether the defendant has reverted to the use of drugs. The defendant shall also make co-payment for the program at a rate to be determined by the U.S. Probation Office;
8. The defendant shall complete 200 hours of community service under the direction of the U.S. Probation Office.

Pursuant to U.S.S.G. § 5E1.2(a), all fines are waived since it has been determined that the defendant does not have the ability to pay.

Further, the defendant was ordered to pay a special assessment fee of \$100.00.

No objection to the sentence by the attorneys. Defendant was advised that he had previously waived his right to appeal the sentence in this case but that if he or his attorney find any other reason in which to appeal that he had ten days in which to do so. Further, the defendant was advised of his right to an attorney for appeal and that the Court will appoint an attorney if he could not afford one.

Government moved to dismiss Count II of the indictment. Court so ordered.

Adj. 11:15 a.m.

/s/ Tina Matsunaga, Deputy Clerk